1947. K File No. O. Registration 47.

Legal DEPARTMENT

A BRANCH

Subject:—

Opinions under the Indian Registration Act, 1908

E 1.3

File No. O. Registration/47.

Stl. Sectt. Slip 24 B e.

158-A.

C O N T E N T S.

Legal Department File No. O. Registration / 1947.

Sr. No.	Compilation No.	Subject.	Pages.
		Opinions under the Indian Registration Act, 1908.	
1.	O.NO. 642/ 18-1-47.	Question Whether a certificate conversion of the tenure in the form prescribed as Appendix 4 of the Bombay City Land Revenue Act, is exempt from registration	1-2.
2.	O.NO. 8699/ 27-8-47.	Question (1) whether when two person execute a will stating therein that after the death of one of them the surviving one should enjoy the whole property and after the latter's death the whole property should go to a thrid person should be treated as one will or two wills for purposes of ~~levy~~ levy of registration fees and (2) Whether such joint will can be presented for registration by one of the testators.	3-4.

11/5

R.I.No. 10782/29-11-1946.

Submitted.

2. By Government Resolution, R.D. No. 1998/45, dated the 14th May 1946 sanction was accorded to the conversion of the tenure of C.S.No.53 of Malabar and Cumballa Hill Division into land free of assessment on payment by the occupants of a premium of Rs.3090. It was directed that the document implementing the conversion should be prepared by the Solicitor in Legal Department at the entire cost of the occupants. Messrs. Mahimtura & Co. Solicitors to the occupants state that they would be satisfied with a conversion certificate from the Collector that the lands have been made free of assessment and that they do not require a conveyance. On a reference from the Collector, the Solicitor in L.D. agreed that there is no objecton to this course being followed provided suitable modification of G.R.R.D. No. 1998/45, dated 14-5-1946 is made. The Collector states that as there would be objection to dispense with the document, the G.R. may be amended suitable. R.D. is of the view that a certificate in the prescribed form is as good as a conveyance, stamped and registered and it is left to the option of the holder to choose the form of document as the entire cost of the document is payable by him and therefore Government cannot insist that the document of conversion should be registered that registration or non-registration of any such document will not in any way affect any right, title or interest of Government in the land and therefore there would be no objection to a certificate for conversion of tenure being issued. Before the orders contained in the G.R. are modified the papers are shown to the R.L.A. unofficially.

Solr's file-
Slip T.

Office of the R.L.A.
Seen and returned.

Sd/- D.V.Vyas.
Remembrancer of Legal Affairs.

U.R. to R.D. No. 642, dated 18-1-47.

JPE. 8/5/56. 4c

Office of the R.L.A.

The first question raised for the consideration of the R.L.A. is whether in cases where husband and wife, or two brothers forming a joint family or two co-widows inheriting the property absolutely from their late husband execute a will stating therein that after the death of one of them the surviving one should enjoy the whole property and after the latter's death the whole property should go to a third person named therin, such will should be treated as one will or two wills for purposes of the levy of registration fees.

Under section 80 of the Indian Registration Act,1908 all fees for the registration of documents under this Act shall be payable on the presentation of documents. If two or more persons as in the cases stated above possess a joi nt interest in any property it would be competent for them to execute a joint will in respect of such property and the will thus executed will be one document or will for purposes of the levy of registration fees.

The second question for consideration is whether such joint will can be presented for registration by ~~xkm~~ one of the testors.

Under seftion 40(1) of the Indian Registration Act a will can be presented for registration by the testator. This section does not exclude the operation of section 32 (see Mulla's Registration Act, p.167). Under section 32 if the document is executed by two or more persons it is not necessary that all of them should present it for registration. The presentation by any one of them is a sufficient compliance with the law (39 B.L.R. 713). Consequently the presentation of a joint will for registration by one of the testators is valid.

~~O.C.~~

Id/- P.M.L.
Remembrancer of Legal Affairs.

U.R. to R.D., No.8699,dated the 27th August 1947. JPE.